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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,101	11/21/2003	James W. Skinner	PSG0035-02	1948

832 7590 02/18/2005

BAKER & DANIELS  
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SUITE 800  
FORT WAYNE, IN 46802

EXAMINER
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PATEL, VISHAL A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/719,101

**Applicant(s)**

SKINNER, JAMES W.

**Examiner**

Vishal Patel

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 10, 16 and 23-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-15 and 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/18/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9, 11-15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skinner et al (US. 4,809,994) in view of Meyers (US. 5,711,536).

Skinner discloses a gasket providing a seal between a pipe and a structure having circular opening (pipe 12 and structure 38). The gasket being mounted in the circular opening of the wall. The gasket comprising an annular body (annular body of 13) having a first end (end 36), an opposite second end (end having 22), an exterior surface (exterior surface of 13), and an interior surface (interior surface of 13). A pipe may be inserted through the body. An annular sealing projection (projection 22) connected to the second end of the body. The sealing projection movable between a first position (first position as seen in figures 4-5) in which the sealing projection extends outwardly from the body (sealing projection extends outwardly from the body) and a second position (position as seen in figure 2a in dash lines or figure 6) in which the sealing projection is disposed within the body and is compressible against the body (the projection is within the body).

The sealing projection is stable in at least one of the first and the second positions (the sealing projection is stable in both positions). The sealing projection remains in its position in

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the absence of external forces applied thereto (the projections remains in its position without external forces, see figures 6 for second position and figure 5 for first position).

The gasket further having an anchoring projection (projection 21) extending radially from the exterior surface of the body and embedded within the wall.

The sealing projection extends substantially longitudinally from the body in the first position (the projection extends substantially longitudinally). The gasket is made of an elastomeric material (column 3, lines 16-17). The sealing projection, the body and the anchoring portion are integrally formed with one another.

The gasket further comprising an annular hinge portion (hinge portion 23) connecting the body and the sealing projection. The sealing projection foldable about the hinge portion between the first and second positions (seen in figure 2A).

The sealing projection includes an enlarged end portion (enlarged end portion of 22) distal from the body. The sealing projection is stable in at least one of the first and second positions (sealing projection is stable in at least one of the first and second position as seen in figures). The sealing projection increases in thickness from the body to an end portion (end portion of 22) of the sealing projection (the thickness of 22 is increasing from 23 toward the end portion).

Skinner discloses the invention substantially as claimed above but fails to disclose a wall portion closing the first end of the annular body. The wall portion selectively penetrable to provide a pipe opening therethrough. The pipe opening is formed by making one or more slits in the wall portion. The pipe opening is formed by removing the wall portion from the body. Meyers teaches a gasket (gasket formed in figures 2 and 6) having a first portion (first portion

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near 24) having a foldable member (24) capable of folding to contact a pipe (pipe DP when placed through the gasket). The gasket having a wall (30), the wall portion having a closed end face (wall having score lines 38 and 40) and the wall being cut to form cut lines (cut lines 38 and 42). The foldable member, the wall, an anchoring portion (28) and a body of the gasket are integrally formed (see figure 2 or 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the gasket of Skinner to have a wall, cuts or slits and have cutting steps on the wall as described by Meyers, to provide a tear away or sealing membrane that seals across the back end of the seal's cylindrical wall so that concrete cannot enter behind the wiper blade which could otherwise render the wiper blade unusable (see column 2, lines 40-45 of Meyers) and (see column 6, lines 25-29 of Meyers) and to provide a self cutting line to form a secondary wiper blade which provide a watertight seal around the leveling device or pipe (column 4, lines 5-6 of Meyers).

3. Claims 1-9, 11-15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyers (US. 5,711,536) in view of Skinner et al (US. 4,809,994).

Meyers discloses A gasket, comprising an annular body (body 22) having a first end (end near 38), an opposite second end (end near hinge 32), an exterior surface (exterior surface of 22), and an interior surface (interior surface of 22), a wall portion (30) extending across and closing the first end of the body, an annular sealing projection (24 projecting inward) connected to the second end of the body (24 is connected to the second end). The sealing projection movable between a first position (position in figure 2) in which the sealing projection extends outwardly from the body and a second position (position of 24 in figure 2 shown by the dotted line) in which the sealing projection is disposed within the body and is compressible against the body

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(the member 24 does compress with the body at the second end at the hinge and near the hinge 32, figure 7). The sealing projection is stable in at least one of the first and the second positions, whereby the sealing projection remains in its position in the absence of external forces applied thereto (the sealing projection remains in its first and second positions without external forces, shown in figure 2). The gasket having an anchoring projection (26) extending radially from the exterior surface of the body. The sealing projection extends substantially longitudinally from the body in the first position (where 24 is extending in the longitudinally direction). A pipe may be inserted through the wall portion upon making one or more slits in the wall portion (slits 38 and 42, pipe inserted into the gasket as showed in figure 7). A pipe may be inserted through the body upon removing the wall portion from the body (the pipe is inserted through the wall after the wall is removed). The gasket is made of an elastomeric material, with the body, the wall portion, and the sealing projection integrally formed with one another. The gasket further comprising an annular hinge portion (hinge portion 32) connecting the body and the sealing projection, the sealing projection foldable about the hinge portion between the first and second positions.

Meyers discloses a gasket for providing a seal between a pipe (pipe DP) and a circular opening in a structure (opening in structure 62). The gasket comprising an annular body having a first end (end near 38), an opposite second end (end near hinge 32), an exterior surface, and an interior surface (exterior and interior surface of 22), means (wall 30) extending across the first end of the body for alternatively closing the first end of the body or providing an opening through the first end of the body (wall 30). The gasket having an annular sealing projection (24) connected to the second end of the body. The sealing projection movable between a first position in which the sealing projection extends outwardly of the body and a second position in which the

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sealing projection is disposed within the body and adjacent the interior surface of the body (first position as showed in figure 2 and second position showed by dotted lines in figure 2). The sealing projection in the second position is compressible against the annular body upon insertion of a pipe through the opening (the member 24 does compress with the body at the second end at the hinge and near the hinge 32, figure 7). The sealing projection is stable in at least one of the first and said second positions, whereby the sealing projection remains in its position in the absence of external forces applied thereto (the sealing projection remains in its first and second positions without external forces, shown in figure 2). The gasket an anchoring projection (26) extending radially from the exterior surface of the body. The gasket is made of an elastomeric material with the body and the sealing projection integrally formed with one another. Meyers discloses a combination having a structure having a wall with a circular opening (circular opening in wall 50) therein, a gasket (20) installed within the opening (figure 7). The gasket comprising an annular body having a first end, an opposite second end, an exterior surface, and an interior surface, a wall portion (30) closing the first end of the annular body, the wall portion selectively penetrable to provide a pipe opening there through, an annular sealing projection (24) connected to the second end of the body. The sealing projection movable between a first position in which the sealing projection extends outwardly from the body and a second position in which the sealing projection is disposed within the body (first position as showed in figure 2 and second position showed by dotted lines in figure 2). The sealing projection is compressible against the body in the second position upon insertion of a pipe through the pipe opening (the member 24 does compress with the body at the second end at the hinge and near the hinge 32, figure 7). The sealing projection is stable in at least one of the first and said second positions, whereby the

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sealing projection remains in its position in the absence of external forces applied thereto (the sealing projection remains in its first and second positions without external forces, shown in figure 2). The gasket further comprises an anchoring projection (26) extending radially from the exterior surface of the body and embedded within the wall (26 is embedded in the wall 62). The gasket is made of an elastomeric material with the body, the sealing projection, and the anchoring projection integrally formed with one another. The pipe opening is formed by making one or more slits (42 and 38) in the wall portion. The pipe opening is formed by removing the wall portion from the body (the wall portion is removed while the pipe is being inserted). Meyers discloses the invention substantially as claimed above but fails to disclose the sealing projection generally increasing in thickness in a direction away from the second end. Skinner teaches to have a gasket having a first end, a second end, a projection that has generally increasing thickness in a direction away from the second end (projection 22) and attached to the second end. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the projection of Meyers to have generally increasing thickness in a direction away from the second end as taught by Skinner to provide sealing for different sizes of pipes (column 5, lines 30-40 of Skinner).

#### ***Response to Arguments***

4. Applicant's arguments filed 12/6/04 have been fully considered but they are not persuasive.

Applicants' argues that the reason why skinner cannot be combined with Meyers is because they both use different method for making the gasket is not persuasive because it is well



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know in the art of making gasket that a gasket can be extruded or molded or vulcanized.

Furthermore all the limitations are taught by Meyers and Skinner.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is (703) 308-8495. The examiner can normally be reached on Monday through Friday from 7:30 PM to 4:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168. Technology Center 3600 Customer Service is available at 703-308-1113. General Customer Service numbers are at 800-786-9199 or 703-308-9000. Fax Customer Service is available at 703-872-9325.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

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**or faxed to:** 703-872-9326, for formal communications for entry before Final action: or,  
703-872-9327, for formal communications for entry after Final action.

Hand-delivered responses should be brought to Crystal Park Five, 2451 Crystal Drive,  
Arlington, Virginia, Seventh Floor (Receptionist suite adjacent to the elevator lobby).

VP

February 15, 2005

A handwritten signature in black ink, appearing to read "Alison Pickard", written in a cursive style.

ALISON PICKARD  
Primary Patent Examiner  
Tech. Center 3600